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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,366	04/16/2002	Thomas L. Toth	GEMS8081.102	4573
27061	7590	10/31/2006	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)			ROY, BAISAKHI	
14135 NORTH CEDARBURG ROAD			ART UNIT	
MEQUON, WI 53097			PAPER NUMBER	

3737

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/063,366

Applicant(s)

TOTH, THOMAS L.

Examiner

Baisakhi Roy

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, with respect to the restriction requirement of April 11, 2005, have been fully considered and are persuasive. Therefore the restriction requirement is withdrawn and claims 1-27 are addressed in this action.

1. With respect to the hub and the number of HF filters in the spoked relationship, the metal disk with the "pie shaped" segments clearly anticipate the claimed structure where the metal disk filter is rotated between high and low energy levels. As stated by Gordon et al., the filter position is adjusted such that the first filter is positioned between the energy source and the source by rotation of the hub or metal disk when the energy source is energized to the first energy state and the second filter is positioned between the energy source and the subject by rotation of the hub or metal disk when the energy source is energized to the second energy state (see col. 13). According to Merriam-Webster Online dictionary, hub is the "central part of a circular object (wheel or propeller)" as the metal disk in Gordon et al. and spokes are "any of the small radiating bars inserted in the hub of a wheel to support the rim" as the segments of the disk in Gordon et al.

With respect to applicant's arguments pertaining to the local and global axes of rotation, claims do not address these elements. Therefore the previous rejection still stands.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-12, 14-21, and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon et al. (5661774). Gordon et al. disclose a CT system comprising: a rotatable gantry (124) having an opening (126) for receiving a subject to be scanned; an HF electromagnetic energy source (128) configured to project a number of HF electromagnetic energy beams toward the subject; a generator (136) configured to energize the HF electromagnetic energy source to at least a first energy state ( $V_1$ ) and a second energy state ( $V_2$ ) (col. 7, lines 12-32); a number of HF electromagnetic energy filters (270, 272) positional between the HF electromagnetic energy source and the subject, the number of HF electromagnetic energy filters include at least a first filter (270) and a second filter (272).

The system includes the method of positioning the first filter (270) between the HF electromagnetic energy source and the subject when the HF electromagnetic energy source is energized to the first energy state, a first voltage ( $V_1$ ) and the second filter (272) is positioned between the HF electromagnetic energy source and the subject when the HF electromagnetic energy source is energized to the second energy state, a second voltage ( $V_2$ ) (col. 13, lines 57-66); and wherein only one of the first filter and the second filter is positioned between the HF electromagnetic energy source and the

subject when the HF electromagnetic energy source is energized either to either one of the first energy state or the second energy state. Gordon et al. also teach said electromagnetic energy source and filters being rotatable about the subject (col. 14 lines 5-17).

The filtering apparatus includes a hub having a generally circular cross-section (col. 13 lines 15-20), with segments or connection ports for each filter up to six filters (col. 13 lines 24-39).

The scanner is useful for scanning luggage or mail packages (col. 16 lines 45-48).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 13, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon et al. in view of Heuscher et al. (5262946). Gordon et al. do not explicitly teach using the system for medical applications. Heuscher et al. disclose a dual-energy system used for obtaining medical data (col. 3 lines 62-66). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Heuscher et al. to modify the teaching by Gordon et al. for the purpose of conducting medical imaging and monitoring physiological conditions of the patient (col. 3 line 65).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BR

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